

UNITED STATES DISTRICT COURT  
DISTRICT OF SOUTH DAKOTA  
SOUTHERN DIVISION

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UNITED STATES OF AMERICA,

Case No. 4:21-mj-70

Plaintiff,

v.

AFFIDAVIT IN SUPPORT OF  
APPLICATION FOR CRIMINAL  
COMPLAINT

DAVID ROBERT FARRELL,

Defendant.

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STATE OF SOUTH DAKOTA    )  
                                          :ss  
COUNTY OF MINNEHAHA    )

I, David Keith, being first duly sworn, hereby depose and state as follows:

**INTRODUCTION AND AGENT BACKGROUND**

1. I am a Special Agent of the United States Department of Justice, Federal Bureau of Investigation (FBI), and have been so employed since March 2003. I am currently assigned to the Minneapolis Division, Sioux Falls Resident Agency and the Crimes Against Children Task Force, where my investigative responsibilities include investigation of child sexual abuse and exploitation crimes such as production, possession, receipt, and distribution of child pornography. I have gained knowledge and experience through training at the FBI Academy, in service training, and everyday work in conducting these types of investigations. I have received training in the area of child pornography and child exploitation investigations and have reviewed numerous examples of child

pornography as defined at 18 U.S.C. § 2256, in various forms of media, including computer media.

2. I am an “investigative or law enforcement officer” of the United States within the meaning of 18 U.S.C. § 2510(7), and am empowered by 18 U.S.C §§ 3052 and 3107 to conduct investigations of, and to make arrests for, violations of federal criminal statutes.

**PURPOSE OF AFFIDAVIT**

3. I make this affidavit in support of an application for a Criminal Complaint charging DAVID ROBERT FARRELL (DOB 03/05/1982) (hereinafter FARRELL) with Attempted Production of Child Pornography and Attempted Enticement of a Minor pursuant to 18 U.S.C. §§ 2251(a) and 2422(b). My investigation to date shows that between at least April 21, 2021, and April 27, 2021, FARRELL persuaded, coerced, and enticed minors to produce and send sexually explicit images that constitute child pornography as defined at 18 U.S.C. § 2251(a). FARRELL also persuaded and coerced a person he believed to be a fifteen-year-old female, to travel from Ainsworth, Nebraska to Sioux Falls, South Dakota, to engage in sexual activity. The individual FARRELL believed to be a fifteen-year-old female was, in actuality, an undercover law enforcement Agent. Specifically:

- a) Between on or about April 22, 2021, through on or about April 23, 2021, in the District of South Dakota, FARRELL sent three photos of his penis to the victim while texting, in graphic detail, how he would have sex with the victim. FARRELL then told the victim “don’t be afraid to send me pics.” The victim responded, “what kind pics u want.” FARRELL replied, “Boobs. Pussy. Ass. Hole body.” FARRELL attempted

to and did employ, use, persuade, induce, entice, and coerce the undercover Agent (self-identified as 15 years of age) to engage in sexually-explicit conduct for the purpose of producing a visual depiction of such conduct, knowing or having reason to know that such visual depiction would be transported or transmitted using any means or facility of interstate or foreign commerce or in or affecting interstate or foreign commerce, and that visual depiction was produced or transmitted using materials that have been mailed, shipped, or transported in or affecting interstate or foreign commerce by any means, including by cellular telephone.

- b) On or about April 23, 2021, through April 27, 2021, in the District of South Dakota, FARRELL attempted to persuade and coerce a person he believed to be a fifteen-year-old female, to travel from Ainsworth, Nebraska to Sioux Falls, South Dakota to engage in sexual activity. In an electronic conversation using *WhatsApp Messenger* FARRELL informed the undercover Agent that he (FARRELL) "got the goods in case the situation presents itself." The undercover Agent replied, "what goods?" FARRELL responded, "Condoms." FARRELL went on to tell the undercover Agent that he was staying at a Best Western Hotel in Sioux Falls. The undercover Agent informed FARRELL that the undercover Agent would be traveling, with the mother, to Sioux Falls from Ainsworth, Nebraska to look at a horse and to sell a puppy dog. FARRELL made plans to meet up with the undercover Agent at FARRELL's hotel room in Sioux Falls. Law Enforcement surveillance observed FARRELL arriving at the Best Western Hotel in Sioux Falls at approximately 7:30 p.m. on April 27, 2021. The undercover Agent informed FARRELL that the undercover Agent was staying at the Courtyard Marriott, located across the road from the Best Western Hotel. The undercover Agent informed FARRELL that he needed to be careful so the mother would not spot FARRELL. At approximately 8:15 p.m. on April 27, 2021, FARRELL sent the undercover Agent a message that stated he had obtained a room at the Courtyard Marriott (room 326) so it would be easier to meet the undercover Agent. The undercover Agent informed FARRELL that they needed to meet in the hotel lobby and then proceed to FARRELL's hotel room. FARRELL arrived in the hotel lobby just a few minutes later and was arrested by me. FARRELL had a condom in his pant pocket at the time of his arrest. Courtyard Marriott records indicated FARRELL had checked into room 326 at approximately 8:09 p.m., on April 27, 2021.
- c) On April 27, 2021, after being advised of his rights and signing the consent portion of the Advice of Rights form, FARRELL was interviewed by me and Supervisory Special Agent Brent Gromer with the South Dakota Division of Criminal Investigation. In the interview, FARRELL

admitted to sending images of his penis to a fifteen-year-old female, believed to be located in Ainsworth, Nebraska. FARRELL also admitted to soliciting the same juvenile female for nude photographs of her "boobs, pussy and ass." FARRELL further admitted that it was his intention to meet up with the juvenile female, whom FARRELL believed traveled from Ainsworth, Nebraska to Sioux Falls, South Dakota, and engage in sexual intercourse.

4. The facts set forth in this affidavit come from my personal observations, my training and experience, evidence gathered pursuant to search warrants and subpoenas, and information obtained from other law enforcement officers and witnesses. Because this affidavit is submitted for the limited purpose of securing a Criminal Complaint, it does not include every fact known to me or to other investigators.

#### **PROBABLE CAUSE**

##### **BACKGROUND OF THE INVESTIGATION**

5. Beginning on or about April 21, 2021, a certified online undercover (UC) DCI Special Agent located in Rapid City, South Dakota, assumed the identity of an existing account belonging to a fifteen-year-old female on *WhatsApp Messenger* to converse with FARRELL.

#### **CONCLUSION**


6. I therefore submit there is probable cause as charged in the proposed Criminal Complaint that DAVID ROBERT FARRELL, in the District of South Dakota, attempted to and did employ, use, persuade, induce, entice, and coerce minors to engage in sexually explicit conduct for the purpose of producing visual depictions of such conduct, knowing and having reason to know that such

visual depictions would be transported and transmitted to him over the internet, all in violation of 18 U.S.C. § 2251(a) .

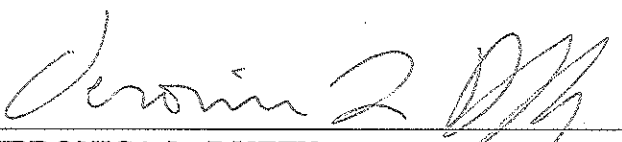
7. I also submit there is probable cause as charged in the proposed Criminal Complaint that DAVID ROBERT FARRELL, in the District of South Dakota, attempted to persuade and coerce a person he believed to be a fifteen-year-old female, to travel from Ainsworth, Nebraska to Sioux Falls, South Dakota to engage in sexual activity. The individual FARRELL believed to be a fifteen-year-old female was, in actuality, an undercover law enforcement Agent, in violation of 18 USC 2422(b).

8. Accordingly, I request that a warrant be issued for the arrest of DAVID ROBERT FARRELL, that he may be brought before this Court.

Dated this 29<sup>th</sup> day of April, 2021.

  
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David Keith, Special Agent  
Federal Bureau of Investigation

Sworn to and subscribed to me, telephonically, on the 29 day of April, 2021, at Sioux Falls, South Dakota.

  
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VERONICA L. DUFFY  
United States Magistrate Judge